

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, MILWAUKEE (183-80 Sub 1)

DATE: July 25, 1977

FROM : SA [REDACTED]

SUBJECT: FRANK PETER BALISTRIERI;
PETER FRANK BALISTRIERI;
STEVE J. DI SALVO;
VINCENT J. MANIACI - VICTIM;
AUGUST J. MANIACI - VICTIM
RICO

The purpose of this memo is two-fold. This memo is to be used to establish a Sub 1 file to this matter in order that materials relevant to the proposed misur coverage can be centrally located.

On July 18, 1977, [REDACTED] Wisconsin Telephone, supplied the following information in response to a subpoena duces tecum. The multiple appearances for telephone number [REDACTED] which is subscribed to by [REDACTED] are as follows:



2 - Milwaukee
ANN/bap (2)



UNITED STATES GOVERNMENT

Memorandum

TO : SAC, MILWAUKEE (183-80 Sub 1)

DATE: July 25, 1977

FROM : SA

b6
b7C

SUBJECT: FRANK PETER BALISTRIERI;
PETER FRANK BALISTRIERI;
STEVE J. DI SALVO;
VINCENT J. MANIACI - VICTIM;
AUGUST J. MANIACI - VICTIM
RICO

Attached is a copy of Title III affidavit submitted
to the Bureau on July 19, 1977, concerning this matter.

1 - Milwaukee
AUN/bap



183-80-Sub 1-1

CHAPTER 940

CRIMES AGAINST LIFE AND BODILY SECURITY

LIFE.

- 940.01 First-degree murder.
- 940.02 Second-degree murder.
- 940.03 Third-degree murder.
- 940.04 Abortion.
- 940.05 Manslaughter.
- 940.06 Homicide by reckless conduct.
- 940.07 Homicide resulting from negligent control of vicious animal.
- 940.08 Homicide by negligent use of vehicle or weapon.
- 940.09 Homicide by intoxicated user of vehicle or firearm.
- 940.12 Assisting suicide.

BODILY SECURITY.

- 940.20 Battery.
- 940.201 Abuse of children.
- 940.205 Battery to peace officers: firemen.
- 940.206 Battery of witnesses and jurors.
- 940.21 Mayhem.
- 940.22 Aggravated battery.
- 940.23 Injury by conduct regardless of life.
- 940.24 Injury by negligent use of weapon.
- 940.28 Abandonment of young child.
- 940.29 Abuse of inmates of institutions.
- 940.30 False imprisonment.
- 940.31 Kidnapping.
- 940.32 Abduction.

LIFE.

940.01 First-degree murder. (1) Whoever causes the death of another human being with intent to kill that person or another shall be sentenced to life imprisonment.

(2) In this chapter "intent to kill" means the mental purpose to take the life of another human being.

Conviction of 1st degree murder upheld where, in the course of a robbery, defendant severely and repeatedly hit the victim with a heavy bottle. *State v. Wells*, 51 W (2d) 477, 187 NW (2d) 328.

940.02 Second-degree murder. Whoever causes the death of another human being by conduct imminently dangerous to another and evincing a depraved mind, regardless of human life, may be imprisoned not less than 5 nor more than 25 years.

As to 2nd degree murder the reference is to conduct evincing a certain state of mind, not that the state of mind actually exists. *Ameen v. State*, 51 W (2d) 175, 186 NW (2d) 206.

It is not correct that provocation may reduce a homicide to 2nd degree murder even though the provocation is not sufficient to reduce the offense to manslaughter. *State v. Anderson*, 51 W (2d) 557, 187 NW (2d) 335.

940.03 Third-degree murder. Whoever in the course of committing or attempting to commit a felony causes the death of another human being as a natural and probable consequence of the commission of or attempt to commit the felony, may be imprisoned not more than 15 years in excess of the maximum provided by law for the felony.

See note to 940.01, citing *State v. Wells*, 51 W (2d) 477, 187 NW (2d) 328.

Where defendant is found guilty of homicide occurring during commission of a felony he may be sentenced for both offenses although separate verdicts were not submitted. *Patelski v. Cady*, 313 F Supp. 1268.

940.04 Abortion. (1) Any person, other than the mother, who intentionally destroys the life of an unborn child may be fined not more than \$5,000 or imprisoned not more than 3 years or both.

(2) Any person, other than the mother, who does either of the following may be imprisoned not more than 15 years:

(a) Intentionally destroys the life of an unborn quick child; or

(b) Causes the death of the mother by an act done with intent to destroy the life of an unborn child. It is unnecessary to prove that the fetus was alive when the act so causing the mother's death was committed.

(3) Any pregnant woman who intentionally destroys the life of her unborn child or who consents to such destruction by another may be fined not more than \$200 or imprisoned not more than 6 months or both.

(4) Any pregnant woman who intentionally destroys the life of her unborn quick child or who consents to such destruction by another may be imprisoned not more than 2 years.

(5) This section does not apply to a therapeutic abortion which:

(a) Is performed by a physician; and

(b) Is necessary, or is advised by 2 other physicians as necessary, to save the life of the mother; and

(c) Unless an emergency prevents, is performed in a licensed maternity hospital.

(6) In this section "unborn child" means a human being from the time of conception until it is born alive.

See note to Art. 1, sec. 1, citing *Babbitz v. McCann*, 3 F Supp. 293.

See note to Art. 1, sec. 1, citing *Harling v. Dept. of H & S*, 323 F Supp. 899.

State regulation of abortion. 1970 WLR 933

(32) "Reasonably believes" means that the actor believes that a certain fact situation exists and such belief under the circumstances is reasonable even though erroneous.

(36) "Sexual intercourse" requires only vaginal penetration and does not require emission.

(40) "Transfer" means any transaction involving a change in possession of any property, or a change of right, title, or interest to or in any property.

(42) "Under the influence of an intoxicant" means that the actor's ability to operate a vehicle or handle a firearm is materially impaired because of his consumption of an alcoholic beverage or controlled substance under ch. 161.

(44) "Vehicle" means any self-propelled device for moving persons or property or pulling implements from one place to another, whether such device is operated on land, rails, water, or in the air.

(46) "With intent" has the meaning designated in s. 939.23.

(48) "Without consent" means no consent in fact or that consent is given for one of the following reasons:

(a) Because the actor put the victim in fear by the use or threat of imminent use of physical violence on him, or on a person in his presence, or on a member of his immediate family; or

(b) Because the actor purports to be acting under legal authority; or

(c) Because the victim does not understand the nature of the thing to which he consents, either by reason of ignorance or mistake of fact or of law other than criminal law or by reason of youth or defective mental condition, whether permanent or temporary.

History: 1971 c. 219; 1973 c. 336.

It was for the jury to determine whether a soft drink bottle, with which the victim was hit on the head, constituted a dangerous weapon. Actual injury to the victim is not required. *Langston v. State*, 61 W (2d) 288, 212 NW (2d) 113.

939.23 Criminal Intent. (1) When criminal intent is an element of a crime in the criminal code, such intent is indicated by the term "intentionally", the phrase "with intent to", the phrase "with intent that", or some form of the verbs "know" or "believe".

(2) "Know" requires only that the actor believes that the specified fact exists.

(3) "Intentionally" means that the actor either has a purpose to do the thing or cause the result specified or believes that his act, if successful, will cause that result. In addition, except as provided in sub. (6), the actor must have knowledge of those facts which are necessary to make his conduct criminal and

which are set forth after the word "intentionally".

(4) "With intent to" or "with intent that" means that the actor either has a purpose to do the thing or cause the result specified or believes that his act, if successful, will cause that result.

(5) Criminal intent does not require proof of knowledge of the existence or constitutionality of the section under which he is prosecuted or the scope or meaning of the terms used in that section.

(6) Criminal intent does not require proof of knowledge of the age of a minor even though age is a material element in the crime in question.

A person need not foresee or intend the specific consequences of his act in order to possess the requisite criminal intent and he is presumed to intend the natural and probable consequences. *State v. Gould*, 56 W (2d) 808, 202 NW (2d) 903.

INCHOATE CRIMES.

939.30 Solicitation. Whoever, with intent that a felony be committed, advises another to commit that crime under circumstances which indicate unequivocally that he has such intent may be fined not more than \$2,500 or imprisoned not to exceed the maximum provided for the completed crime, but in no event to exceed 5 years, or both; except that for a solicitation to commit a crime for which the penalty is life imprisonment the actor may be imprisoned not more than 10 years.

939.31 Conspiracy. Whoever, with intent that a crime be committed, agrees or combines with another for the purpose of committing that crime may, if one or more of the parties to the conspiracy does an act to effect its object, be fined or imprisoned or both not to exceed the maximum provided for the completed crime; except that for a conspiracy to commit a crime for which the penalty is life imprisonment, the actor may be imprisoned not more than 30 years.

939.32 Attempt. (1) Whoever attempts to commit a felony or a battery as defined by s. 940.20 or theft as defined by s. 943.20 may be fined or imprisoned or both not to exceed one-half the maximum penalty for the completed crime; except that for an attempt to commit a crime for which the penalty is life imprisonment, the actor may be imprisoned not more than 30 years. Whoever attempts to commit a battery as defined in s. 940.205 may be imprisoned not more than one year in the county jail.

(2) An attempt to commit a crime requires that the actor have an intent to perform acts and attain a result which, if accomplished, would constitute such crime and that he does acts toward the commission of the crime which

FEDERAL BUREAU OF INVESTIGATION
FOIPA
DELETED PAGE INFORMATION SHEET

No Duplication Fees are charged for Deleted Page Information Sheet(s).

Total Deleted Page(s) ~ 29

Page 5 ~ b3, b6, b7C, b7D
Page 6 ~ b3, b6, b7C, b7D
Page 7 ~ b3, b6, b7C, b7D
Page 8 ~ b3, b6, b7C, b7D
Page 9 ~ b3, b6, b7C, b7D
Page 10 ~ b3, b6, b7C, b7D
Page 11 ~ b3, b6, b7C, b7D
Page 12 ~ b3, b6, b7C, b7D
Page 13 ~ b3, b6, b7C, b7D
Page 14 ~ b3, b6, b7C, b7D
Page 15 ~ b3, b6, b7C, b7D
Page 16 ~ b3, b6, b7C, b7D
Page 17 ~ b3, b6, b7C, b7D
Page 18 ~ b3, b6, b7C, b7D
Page 19 ~ b3, b6, b7C, b7D
Page 20 ~ b3, b6, b7C, b7D
Page 21 ~ b3, b6, b7C, b7D
Page 22 ~ b3, b6, b7C, b7D
Page 23 ~ b3, b6, b7C, b7D
Page 24 ~ b3, b6, b7C, b7D
Page 25 ~ b3, b6, b7C, b7D
Page 26 ~ b3, b6, b7C, b7D
Page 27 ~ b3, b6, b7C, b7D
Page 28 ~ b3, b6, b7C, b7D
Page 29 ~ b3, b6, b7C, b7D
Page 30 ~ b3, b6, b7C, b7D
Page 31 ~ b3, b6, b7C, b7D
Page 32 ~ b3, b6, b7C, b7D
Page 33 ~ b3, b6, b7C, b7D